

(J39229/ms4)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO

In re:

Kevin R. Baker

Debtor(s).

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Case No. 10-55479

Chapter 7 Proceedings

Judge John E. Hoffman, Jr.

**MOTION OF WELLS FARGO
BANK, NA ASSIGNEE OF
WELLS FARGO AUTO
FINANCE, INC. FOR RELIEF
FROM STAY**

Wells Fargo Bank, NA assignee of Wells Fargo Auto Finance, Inc., (the “Movant”) moves this Court, under Sections 361, 362, 363, 554 and other sections of the Bankruptcy Reform Act of 1978, as amended (the “Bankruptcy Code”) and under Rules 4001, 6007 and other rules of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for an Order conditioning, modifying or dissolving the automatic stay imposed by Section 362 of the Bankruptcy Code. In support of this Motion, the Movant states:

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. Sections 157 and 1334. This is a core proceeding under 28 U.S.C. Section 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. Sections 1408 and 1409.

2. On February 7, 2007, the Debtor(s) listed above (collectively, the “Debtor”) obtained a loan from Movant in the amount of \$10,449.34. Such loan was evidenced by a Retail Installment Sale Contract dated February 7, 2007 (the “Note”), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, the Debtor executed a Security Agreement dated February 7, 2007 (the “Security Agreement”). The Security Agreement granted a lien on the personal property listed as 2000 Chevrolet Silverado (VIN

1GCGK29U5YZ177919) (the “Collateral”) owned by the Debtor, and more fully described in the Security Agreement.

4. The lien created by the Security Agreement was duly perfected by:

The filing of the Security Agreement in the office of the Jefferson, County Bureau of Motor Vehicles on February 27, 2007 is evidenced by the copy of the title, all being attached as Exhibit B. The lien is the first lien on the Collateral.

5. The Note and Security Agreement were transferred as follows:

None.

6. The value of the Collateral is \$7,350.00. This valuation is based on NADA.

7. As of the date of this Motion, there is currently due and owing on the Note the outstanding balance of \$4,196.28, plus interest accruing thereon at the rate of 10.75% per annum [\$n/a per day] from May 20, 2010.

8. Other parties known to have an interest in the Collateral are none.

9. The Movant is entitled to relief from the automatic stay under Sections 362(d)(1) and/or 362(d)(2) for these reason(s):

Debtor has failed to provide adequate protection for the lien held by the Movant for the reasons set forth below:

Debtor has failed to make periodic payments to Movant since the commencement of this bankruptcy case, which unpaid payments are in the aggregate amount of \$806.88 through May 20, 2010.

WHEREFORE, Movant prays for an Order from the Court granting Movant relief from the automatic stay of Section 362 of the Bankruptcy Code to permit Movant to proceed under law and for such other and further relief to which the Movant may be entitled.

Respectfully submitted,

/s/Clinton Preslan

THEODORE A. KONSTANTINOPOULOS #0065542

LINDSEY HALL #0075152

CLINTON PRESLAN #0080748

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NOTICE

Pursuant to 11 U.S.C. Section 362, the stay shall be terminated unless the Debtor(s) or an individual that is liable on such debt files a written objection to the granting of such relief within twenty-one (21) days from the date of filing of this Motion, and serves a copy of said objection to the attorney for the Movant. Unless a written objection is filed, a hearing will not be held on the within matter and relief shall be granted.

/s/Clinton Preslan

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DAVID POWELL #0076375

Attorneys for Movant

CERTIFICATE OF SERVICE

I certify that on May 24, 2010, copies of this Motion for Relief from Automatic Stay were served electronically and by ordinary U.S. Mail, postage prepaid, to the persons listed below.

Kevin R. Baker
515 Main Street
Toronto, OH 43964

William Haynes
Attorney for the Debtor
(Electronic Service)

Thomas Hazlett
Trustee in Bankruptcy
(Electronic Service)

U.S. Trustee's Office
(Electronic Service)

/s/Clinton Preslan
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